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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 CHRISTOPHER ALLEN CAIN, also
11 known as Christopher Cain Bey,

12 Defendant.

NO: 2:16-CR-069-RMP
2:16-CR-176-RMP

ORDER DENYING DEFENDANT'S
MOTION TO VACATE, SET ASIDE,
OR CORRECT THE SENTENCE
UNDER 28 U.S.C. § 2255

13 BEFORE THE COURT is Mr. Cain's sealed filing, ECF No. 170 (in 2:16-
14 CR-69) and ECF No. 154 (in 2:16-CR-176). The Court has reviewed Mr. Cain's
15 pleadings and is fully informed.

16 Mr. Cain submitted his present motion on forms provided by the State of
17 Washington. The Court construes the documents as a Motion to Vacate, Set Aside,
18 or Correct the Sentence under 28 U.S.C. § 2255.

19 The district court "will not review a section 2255 motion until the direct
20 appeal is resolved." *United States v. Lafromboise*, 427 F.3d 680, 686 (9th Cir.
21 2005). Because Mr. Cain has filed a notice of appeal for his judgment and

ORDER DENYING DEFENDANT'S MOTION TO VACATE, SET ASIDE, OR
CORRECT THE SENTENCE UNDER 28 U.S.C. § 2255 ~ 1

1 sentence, ECF No. 166, the Court finds that Mr. Cain's present motion is
2 premature.

3 If Mr. Cain wishes to proceed with a § 2255 motion in the future, he must
4 present his petition on the appropriate form provided by the federal Court, not on a
5 form for a Washington State court, and only after his direct appeal has been
6 resolved. The Clerk of Court is directed to provide Mr. Cain with the appropriate
7 form along with a copy of this order.

8 Accordingly, **IT IS HEREBY ORDERED** that Mr. Cain's Motion to
9 Vacate, Set Aside, or Correct the Sentence under 28 U.S.C. § 2255, **ECF No. 170**
10 (in 2:16-CR-69) and **ECF No. 154** (in 2:16-CR-176), is **DENIED** as moot because
11 it is premature.

12 The District Court Clerk is directed to send Mr. Cain the appropriate 28
13 U.S.C. § 2255 petition form, enter this Order, and provide copies to counsel and
14 close the cases.

15 **DATED** November 16, 2017.

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17 *s/ Rosanna Malouf Peterson*
18 ROSANNA MALOUF PETERSON
19 United States District Judge
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